

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re Navidea Biopharmaceuticals Litigation

Case No. 1:19-cv-01578-VEC

**NOTICE OF DEFENDANT'S
MOTION FOR SUMMARY
JUDGMENT**

PLEASE TAKE NOTICE that on a date to be determined by the Court, Gregory Zimmer Esq., on behalf of Defendant Michael M. Goldberg M.D. ("Defendant"), shall move before the Honorable Valerie E. Caproni, U.S.D.J., at the Thurgood Marshall United States Courthouse, 40 Foley Square, New York, NY 10007, for an Order granting summary judgment pursuant to Federal Rule of Civil Procedure 56 in favor of Defendant and against Plaintiff Navidea Biopharmaceuticals, Inc. and Third-party Defendant Macrophage Therapeutics, Inc. on Plaintiff's claims asserted in its First, Second and Third Causes of Action in the First Amended Complaint.

PLEASE TAKE FURTHER NOTICE that Defendant shall also move before the Court for an Order granting summary judgment pursuant to Rule 56 in his favor as to his Counterclaim and Third-Party Claim asserted in Counts I and II of the Answer, Counterclaims and Third-Party Complaint.

PLEASE TAKE FURTHER NOTICE that, in support of its Motion, Defendant shall rely upon the pleadings and: (i) the Memorandum of Law in Support of Defendant's Motion for Summary Judgment; (ii) Defendant's Rule 56.1 Statement of Material Facts Not in Dispute; (iii) the Declaration of Gregory Zimmer, Esq. in Support of Defendant's Motion for Summary

Judgment, along with the accompanying exhibits and such other papers as may be filed in support of and in opposition to this Motion.

PLEASE TAKE FURTHER NOTICE that pursuant to the Letter Order of District Judge Valerie E. Caproni dated May 24, 2023, opposition briefs are due on or before June 29, 2023, and reply briefs are due on or before July 20, 2023.

PLEASE TAKE FURTHER NOTICE that oral argument on the Motion is hereby requested.

Respectfully submitted,

/s/ Gregory Zimmer
Gregory Zimmer, Esq.
142 New Chalet Drive
Mohegan Lake, NY 10547
Tel: (914) 402-5683
GZimmer@GZimmerLegal.com

Jennifer Fiorica Delgado, Esq.
Lowenstein Sandler LLP
1251 Avenue of the Americas
New York, NY 10020
(646) 414-6962
jdelgado@lowenstein.com

Dated: June 1, 2023

*Attorneys for Defendant/Counterclaim
Plaintiff/Third-Party Plaintiff Michael M.
Goldberg, M.D.*